**Shrichand vs. State of Rajasthan & Anr.**

**(S.B.Criminal Revision No.887/05)**

Dated:- 17.1.2007.

**HON'BLE MR.JUSTICE G.S.SARRAF**

Mr.Sandeep Mehta,for the petitioner.
Mr.S.N.Tiwari, Public Prosecutor.
Mr.P.K.Maharshi for respondent no.2.

This revision petition is directed against the order dated 23.8.2005 of Chief Judicial Magistrate, Sirohi dismissing the application of the petitioner to get the motor-cycle RJ-24-1M-9049 on 'supurdagi' and giving the aforementioned motor-cycle on 'interim supurdagi' to the respondent no. 2 on executing a 'supurdaginama' of Rs.30,000/- and furnishing a surety in the like amount.

Learned counsel for the petitioner submits that the respondent no. 2 took a finance from the petitioner to purchase the aforementioned motor-cycle on the basis of higher purchase agreement and as per the terms of the agreement, the petitioner was entitled to seize the motor-cycle on non-payment of instalments. He submits that the respondent no. 2 did not make payment of the instalments due and, therefore, the petitioner after issuing a notice to the respondent no. 2 repossessed the motor-cycle on 18.5.2005. He submits that the respondent no. 2 maliciously filed a first information report of theft at the Police Station,Sirohi on 18.5.2005 whereupon

the aforementioned motor-cycle was seized by the police from the petitioner. He submits that since the petitioner is a financier and the motor-cycle has been seized from his possession, the order of the trial Court giving the motor-cycle on 'interim supurdagi' to the respondent no. 2 is illeal and therefore deserves to be quashed.

Learned counsel for the respondent no. 2 submits that the respondent no. 2 is the registered owner of the motor-cycle and he has paid the instalments due, therefore, learned Chief Judicial Magistrate has rightly given the motor-cycle on 'interim supurdagi' to the respondent no.2.

I am of the opinion that in the facts and circumstances of the case the learned Chief Judicial Magistrate has not committed any error or illegality by giving the motor-cycle on 'interim supurdagi' to the respondent no. 2 who is the registered owner and if the petitioner is aggrieved by the order directing the release of the motor-cycle in favour of the respondent no. 2, it is open for him to approach Civil Court in this regard and in that case the order of the Civil Court shall prevail. In this view of the matter, I find no merit in this revision petition. I am supported by 2002 W.L.C.(S.C.) Criminal 259.

The revision petition stands dismissed accordingly.

**(G.S.SARRAF),J.**